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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,653	06/23/2006	Max Segerljung	821-70	2219
28349 7590 01/05/2009 DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. SUITE 702 UNIONDALE, NY 11553				
EXAMINER UNDERWOOD, DONALD W				
ART UNIT 3652		PAPER NUMBER		
MAIL DATE 01/05/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,653

Applicant(s)

SEGERLJUNG ET AL.

Examiner

Donald Underwood

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 13-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claims 13-16 are objected to as being unclear. In claims 13 and 14, "second" should be changed to --first-- since no first hydraulic drive means and/or first hydraulic cylinder are claimed. Also in claim 14, "vehicles" should be --vehicle--. In claims 15 and 16, "third" should be --second--. See the discussion of claims 13 and 14 above.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, "possibility" in line 17 renders the claim indefinite since it begs the question: Can the control position the tool over the vehicle or not? Either it can or it can not. The claim must be clear.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 10-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by newly cited Bentivoglio

Note figure 3 of the reference illustrates the coordinated movement of the forks and the boom. Also note cylinders C1, C2 and the unlabeled boom cylinder and the extendable boom. The control arrangement as broadly set forth does not require an

automatic control and thus does not define over the controls for these cylinders and the boom extension. Finally note that the load support extends beyond the boom sides and at least part of the support would be over the seat area 15 if the boom in figure 3 of the reference were retracted.

Claims 1-6 and 10-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U. K. Patent Application 2264689.

Note the load in figure 5 of the reference could be placed over the vehicle by retracting the boom. Further note the claims do not require an automatic control and thus do not define over the controls in the reference.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 10-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over either newly cited Bentivoglio or U. K. Patent Application 2264689 in view of either European Patent Application 1081292 (EP 1081292) or Bach, et al.

While the claims are not deemed to require an automatic control, it would have been obvious to provide Bentivoglio or U. K. Patent Application with an automatic control to avoid human error in view of the controls in either EP 1081292 or Bach.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over newly cited Bentivoglio or U. K. Patent Application 2264689 or each of these references

in view of either EP 1081292 or Bach, et al. as applied to claim 1 above with further comment in view of EP 1081292.

It would have been obvious to extend the boom in Bentivoglio or in U.K. Patent application 2264689 or in each of these references in view of EP 1081292 or Bach, et al. as applied to claim 1 above with an hydraulic cylinder in view of the teaching in EP 1081292 (element 16).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over newly cited Bentivoglio or U. K. Patent Application 2264689 or each of these references in view of EP 1081292 or Bach, et al. as applied to claim 1 above in view of the following comments.

It would have been obvious to provide an arrangement for a replaceable attachment in each of the primary references in view of the teaching in Heiple (paragraph 0015) to provide diversity to the device in each primary reference.

Applicant's arguments have been carefully considered but are not deemed persuasive since they are directed towards a newly added limitation treated in the new rejections set forth above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Underwood whose telephone number is 571-272-6933. The examiner can normally be reached on Mon-Thursday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald Underwood/
Primary Examiner, Art Unit 3652

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